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CENTRAL FAX CENTER****DEC 12 2007****FACSIMILE COVER SHEET****DATE:** December 12, 2007**TO:** Examiner AL-AUIBAIDI, Rasha S. **FAX NO.:** 571-273-8300  
USPTO GPAU 2614**FROM:** Jeffrey G. Toler  
Reg. No.: 38,342**RE U.S. App. No.:** 10/705,766**Applicant(s):** Larry B. Pearson**Atty Dkt No.:** 1033-MS1016**Title:** DISTINCTIVE CALL WAITING BASED ON A REDIRECTING  
NUMBER**NO. OF PAGES (including Cover Sheet):** 10**MESSAGE:**

Attached please find:

- ☒ Transmittal Form (1 pg)
- ☒ Pre-Appeal Brief Request for Review (1pg)
- ☒ Notice of Appeal (In duplicate 2 pgs)
- ☒ Remarks in Support of Pre-Appeal Brief Request for Review (5 pgs)

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PTO/SB/21 (12-07)

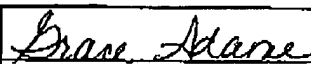
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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/705,766	
	Filing Date	November 10, 2003	
	First Named Inventor	Larry B. Pearson	
	Art Unit	2614	
	Examiner Name	AI AUBAIDI, Rasha S.	
Total Number of Pages in This Submission	9	Attorney Docket Number	1033-MS1016

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below): 1) Pre-Appeal Brief Request for Review 2) Remarks in Support of the Pre-Appeal Brief Request
Remarks  Customer No.: 60533		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Toler Law Group, Intellectual Properties		
Signature			
Printed name	Jeffrey G. Toler		
Date	12-12-2007	Reg. No.	38,342

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Signature			
Typed or printed name	Grace Adame	Date	December 12, 2007

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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
		1033-MS1016	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>December 12, 2007</u> Signature <u>Grace Adame</u> Typed or printed name <u>Grace Adame</u>		Application Number <u>10/705,766</u>	Filed <u>November 10, 2003</u>
		First Named Inventor <u>Larry B. Pearson</u>	
		Art Unit <u>2614</u>	Examiner <u>AL AUBAIDI, Rasha S.</u>
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the		Signature <u>Jeffrey G. Toler</u> Typed or printed name <u>Jeffrey G. Toler</u> Telephone number <u>512-327-5515</u> Date <u>12-12-2007</u>	
<input type="checkbox"/> applicant/inventor.			
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)			
<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>38,342</u>			
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____			
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/31 (11-07)

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NOTICE OF APPEAL FROM THE EXAMINER TO  
THE BOARD OF PATENT APPEALS AND INTERFERENCES

Docket Number (Optional)

103-MS1016

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Signature

Typed or printed name Grace Adame

In re Application of

Larry B. Pearson

Application Number

107705,766

Filed

November 10, 2003

For DISTINCTIVE CALL WAITING BASED ON A REDIRECTING NUMBER

Art Unit

2614

Examiner

AL AUBAIDI, Rasha S.

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the last decision of the examiner.

The fee for this Notice of Appeal is (37 CFR 41.20(b)(1))

\$ 510

- ☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is: \$ \_\_\_\_\_
- ☐ A check in the amount of the fee is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director has already been authorized to charge fees in this application to a Deposit Account. I have enclosed a duplicate copy of this sheet.
- ☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 50-2469. I have enclosed a duplicate copy of this sheet.
- ☐ A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- ☒ attorney or agent of record. 38,342  
Registration number
- ☐ attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. \_\_\_\_\_

Signature

Jeffrey G. Toler

Typed or printed name

512-327-5515

Telephone number

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☒ Total of 2 forms are submitted.

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PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 12 2007

Applicant(s): Larry B. Pearson

Title: DISTINCTIVE CALL WAITING BASED ON A REDIRECTING  
NUMBER

App. No.: 10/705,766

Filed: Nov. 10, 2003

Examiner: Al Aubaidi, Rasha S.

Group Art Unit: 2614

Customer No.: 60533

Confirmation No.: 4375

Atty. Dkt. No.: 1033-MS1016

M/S:AF

Commissioner for Patents

PO Box 1450

Alexandria, VA 22313-1450

REMARKS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR  
REVIEW

Dear Sir:

In response to the Final Office Action ("Office Action") mailed October 1, 2007, please reconsider the above-identified application in light of the following remarks:

## Claims 1-16 Are Allowable

Claims 1-25 are pending. Claims 1-25 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,738,466 ("LaPierre") in view of U.S. Application No. 2006/0104434 ("Nguyen"). Applicant intends to cancel claim 17-25 without prejudice or disclaimer after resolution of the issues subject to Pre-Appeal Review; therefore, no arguments are presented regarding these claims. Applicant respectfully traverses the rejections of the remaining claims.

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Grace Adame	<u>Grace Adame</u>
Typed or Printed Name	Signature

None of the cited references, including LaPierre and Nguyen, individually or in combination, disclose or suggest the specific combination of claim 1. For example, LaPierre does not disclose or suggest "applying one of a plurality of distinctive types of *call waiting tones* to the destination device based upon the redirecting number," as recited in claim 1 (emphasis added). In contrast to claim 1, LaPierre discloses "using a distinctive *ring* to identify that the call has been redirected". LaPierre, Abstract (emphasis added). LaPierre does not disclose or suggest "call waiting" or "call waiting tones". When a telephone is not in use, the telephone rings when an inbound call is received. When a telephone is in use and an inbound call is received, the called party may hear a call waiting tone indicating that an inbound call is waiting for the called party. Using a distinctive *ring* to identify that a call has been redirected does not teach applying one of a plurality of distinctive types of *call waiting tones* to the destination device. Thus, LaPierre does not disclose or suggest the specific combination of claim 1.

Nguyen does not disclose or suggest "applying one of a plurality of distinctive types of *call waiting tones* to the destination device based upon the redirecting number," as recited in claim 1 (emphasis added). In contrast to claim 1, Nguyen discloses a "system for a caller to control a distinctive *ring* for a telephone call". Nguyen, Abstract (emphasis added). Nguyen does not disclose or suggest "call waiting" or "call waiting tones". Using a distinctive *ring* for a telephone call does not teach applying one of a plurality of distinctive types of *call waiting tones* to the destination device based upon the redirecting number. Thus, Nguyen does not disclose or suggest the specific combination of claim 1.

Therefore, neither LaPierre nor Nguyen, individually or in combination disclose or suggest "applying one of a plurality of distinctive types of *call waiting tones* to the destination device based upon the redirecting number," as recited in claim 1 (emphasis added). Hence, claim 1 is allowable.

Claims 2-6 depend from claim 1, which Applicant has shown to be allowable. Hence, LaPierre and Nguyen fail to disclose at least one element of claim 1. Accordingly, claims 2-6 are allowable, at least by virtue of their dependence from claim 1. In addition, claims 2-6 recite additional elements not disclosed by the references. For example, neither LaPierre nor Nguyen,

individually or in combination, teach or disclose “wherein the redirecting number is compared to a set of authorized numbers in a distinctive call waiting tone activation list and wherein the distinctive type of call waiting tone is applied when the redirecting number is found within the set of authorized numbers,” as recited in claim 3. Neither LaPierre nor Nguyen, individually or in combination, teach or disclose “wherein the method is implemented in a VoIP type system,” as recited in claim 5. Hence, claims 2-6 are allowable.

None of the cited references, including LaPierre and Nguyen, individually or in combination, disclose or suggest the specific combination of claim 7. For example, LaPierre does not disclose or suggest “applying one of the plurality of distinctive types of *call waiting tones* after receiving the response message from the switch control point,” as recited in claim 7 (emphasis added). In contrast to claim 7, LaPierre discloses “using a distinctive *ring* to identify that the call has been redirected”. LaPierre, Abstract (emphasis added). LaPierre does not disclose or suggest “call waiting” or “call waiting tones”. A distinctive *ring* does not teach *call waiting tones*. Thus, LaPierre does not disclose or suggest the specific combination of claim 7.

Nguyen does not disclose or suggest “applying one of the plurality of distinctive types of *call waiting tones* after receiving the response message from the switch control point,” as recited in claim 7 (emphasis added). In contrast to claim 7, Nguyen discloses a “system for a caller to control a distinctive *ring* for a telephone call”. Nguyen, Abstract (emphasis added). Nguyen does not disclose or suggest “call waiting” or “call waiting tones”. A distinctive *ring* does not teach *call waiting tones*. Thus, Nguyen does not disclose or suggest the specific combination of claim 7.

Therefore, neither LaPierre nor Nguyen, individually or in combination disclose or suggest “applying one of the plurality of distinctive types of call waiting tones after receiving the response message from the switch control point,” as recited in claim 7. Hence, claim 7 is allowable.

Claims 8-10 depend from claim 7, which Applicant has shown to be allowable. Hence, LaPierre and Nguyen fail to disclose at least one element of claim 7. Accordingly, claims 8-10

are allowable, at least by virtue of their dependence from claim 7. In addition, claims 8-10 recite additional elements not disclosed by the references. For example, neither LaPierre nor Nguyen, individually or in combination, teach or disclose "comparing the redirecting number to a plurality of authorized distinctive call waiting numbers," as recited in claim 8. Neither LaPierre nor Nguyen, individually or in combination, teach or disclose "wherein the response message indicates setting the distinctive type of call waiting tone only when the redirecting number is found within the plurality of authorized distinctive call waiting numbers," as recited in claim 9. Hence, claims 8-10 are allowable.

None of the cited references, including LaPierre and Nguyen, individually or in combination, disclose or suggest the specific combination of claim 11. For example, LaPierre does not disclose or suggest "setting one of a plurality of distinctive types of *call waiting tones* on a subscriber line based on the redirecting number," as recited in claim 11 (emphasis added). In contrast to claim 11, LaPierre discloses "using a distinctive *ring* to identify that the call has been redirected". LaPierre, Abstract (emphasis added). LaPierre does not disclose or suggest "call waiting" or "call waiting tones". A distinctive *ring* does not teach *call waiting tones*. Thus, LaPierre does not disclose or suggest the specific combination of claim 11.

Nguyen does not disclose or suggest "setting one of a plurality of distinctive types of *call waiting tones* on a subscriber line based on the redirecting number," as recited in claim 11 (emphasis added). In contrast to claim 11, Nguyen discloses a "system for a caller to control a distinctive *ring* for a telephone call". Nguyen, Abstract (emphasis added). Nguyen does not disclose or suggest "call waiting" or "call waiting tones". A distinctive *ring* does not teach *call waiting tones*. Thus, Nguyen does not disclose or suggest the specific combination of claim 11.

Therefore, neither LaPierre nor Nguyen, individually or in combination disclose or suggest "setting one of a plurality of distinctive types of call waiting tones on a subscriber line based on the redirecting number," as recited in claim 11. Hence, claim 11 is allowable.

Claims 12-16 depend from claim 11, which Applicant has shown to be allowable. Hence, LaPierre and Nguyen fail to disclose at least one element of claim 11. Accordingly, claims 12-



16 are allowable, at least by virtue of their dependence from claim 11. In addition, claims 12-16 recite additional elements not disclosed by the references. For example, neither LaPierre nor Nguyen, individually or in combination, teach or disclose "wherein the redirecting number is compared to a set of authorized numbers in a distinctive call waiting tone activation list and wherein the distinctive type of call waiting tone is applied when the redirecting number is found within the set of authorized numbers," as recited in claim 13. Neither LaPierre nor Nguyen, individually or in combination, teach or disclose "wherein the method is implemented in a VoIP type system," as recited in claim 15. Hence, claims 12-16 are allowable.

### CONCLUSION

Applicant has pointed out specific features of the claims not disclosed, suggested, or rendered obvious by the references applied in the Office Action. Accordingly, Applicant respectfully requests reconsideration and withdrawal of each of the objections and rejections, as well as an indication of the allowability of each of the pending claims.

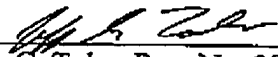
Any changes to the claims in this response, which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

The Examiner is invited to contact the undersigned attorney at the telephone number listed below if such a call would in any way facilitate allowance of this application.

The Commissioner is hereby authorized to charge any fees, which may be required, or credit any overpayment, to Deposit Account Number 50-2469.

Respectfully submitted,

12-12-2007  
Date

  
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